

# Senate File 394

PAG LIN

SENATE FILE 394

1 1  
1 2  
1 3 AN ACT  
1 4 RELATING TO THE REGULATION OF THE GRAIN INDUSTRY, AND MAKING  
1 5 PENALTIES APPLICABLE.  
1 6  
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 8  
1 9 DIVISION I  
1 10 REGULATION OF GRAIN DEALER AND WAREHOUSE OPERATIONS  
1 11 Section 1. Section 203.1, Code 2003, is amended by adding  
1 12 the following new subsections:  
1 13 NEW SUBSECTION. 1A. "Check" means a paper instrument used  
1 14 for ordering, instructing, or authorizing a financial  
1 15 institution to make payment or credit a presenter's account  
1 16 and debit the issuer's account. "Check" includes instruments  
1 17 commonly referred to as a check, draft, share draft, or other  
1 18 negotiable instrument for the payment of money. An instrument  
1 19 may be a check even though it is described on its face by  
1 20 another term, such as "money order".  
1 21 NEW SUBSECTION. 4A. "Electronic funds transfer" means a  
1 22 remote electronic transmission used for ordering, instructing,  
1 23 or authorizing a financial institution to pay money to or  
1 24 credit the account of the payee and debit the account of the  
1 25 payer. The remote electronic transmission may be initiated by  
1 26 telephone, terminal, computer, or similar device.  
1 27 NEW SUBSECTION. 8A. "Person" means the same as defined in  
1 28 section 4.1 and includes a business association as defined in  
1 29 section 9H.1 or joint or common venture regardless of whether  
1 30 it is organized under a chapter of the Code.  
1 31 Sec. 2. Section 203.1, subsection 6, paragraph a, Code  
1 32 2003, is amended to read as follows:  
1 33 a. The making of a payment by use of ~~a financial~~  
~~instrument which is a check, share draft, draft, or written~~  
~~order on a financial institution or electronic funds transfer,~~  
2 1 and a financial institution refuses payment ~~on the instrument~~  
2 2 because of insufficient ~~funds~~ moneys in a grain dealer's  
2 3 account.  
2 4 Sec. 3. Section 203.4, Code 2003, is amended to read as  
2 5 follows:  
2 6 203.4 PARTICIPATION IN INDEMNITY FUND REQUIRED.  
2 7 A ~~person~~ grain dealer licensed or required to be licensed  
2 8 ~~to operate as a grain dealer under this chapter pursuant to~~  
2 9 section 203.3 shall participate in and comply with the grain  
2 10 depositors and sellers indemnity fund provided in chapter  
2 11 203D.  
2 12 Sec. 4. Section 203.8, Code 2003, is amended to read as  
2 13 follows:  
2 14 203.8 PAYMENT.  
2 15 1. a. A ~~person~~ grain dealer licensed or required to be  
2 16 licensed as a grain dealer pursuant to section 203.3 shall pay  
2 17 the purchase price to the ~~owner or the owner's agent~~ seller  
2 18 for grain upon delivery or demand ~~of by the owner or agent~~  
2 19 seller, but not later than thirty days after delivery by the  
2 20 ~~owner or agent~~ seller unless in accordance with the terms of a  
2 21 credit-sale contract that satisfies the requirements of this  
2 22 chapter. The department shall adopt rules for payment by  
2 23 check and electronic funds transfer.  
2 24 b. A grain dealer licensed or required to be licensed  
2 25 pursuant to section 203.3 shall not hold a check for the  
2 26 purchase of grain more than five days after the grain dealer  
2 27 issues a check to the seller. After that date, the grain  
2 28 dealer shall deliver the check in person or by mail to the  
2 29 seller's last known address.  
2 30 2. As used in this section, ~~"delivery":~~  
2 31 a. "Delivery" means the transfer of title to and  
2 32 possession of grain by ~~the a~~ seller to ~~the a~~ grain dealer or  
2 33 to another person in accordance with the agreement of the  
2 34 seller and the grain dealer, ~~and "payment":~~  
2 35 b. "Payment" means the actual payment or tender of payment  
3 1 by ~~the a~~ grain dealer to ~~the a~~ seller of the agreed purchase  
3 2 price, or in the case of disputes as to sales of grain, the  
3 3 undisputed portion of the purchase price without reduction for  
3 4 any separate claim of the grain dealer against the seller.  
3 5 Sec. 5. Section 203.9, Code 2003, is amended to read as

3 6 follows:

3 7 203.9 INSPECTION OF PREMISES, ~~BOOKS~~ AND RECORDS ==

3 8 RECONSTRUCTION OF RECORDS.

3 9 1. The department may inspect the premises used by any  
3 10 grain dealer in the conduct of the dealer's business at any  
3 11 time, ~~and the~~. The department may inspect a grain dealer's  
3 12 ~~books, accounts, records, and papers of every grain dealer~~  
3 13 ~~which that pertain to grain purchases are subject to~~  
3 14 ~~inspection by the department transactions during ordinary~~  
3 15 ~~business hours. The department shall cause the business~~  
3 16 ~~premises and books, accounts, inspect a grain dealer's~~  
3 17 ~~records, and papers of every grain dealer to be inspected at~~  
3 18 least once each eighteen-month period without justification.  
3 19 The department shall prioritize inspections based on the  
3 20 system provided in section 203.22. The department may use a  
3 21 risk rating produced by a statistical model provided in  
3 22 section 203.22 as justification to conduct an inspection. The  
3 23 A transporter of grain in transit shall possess bills of  
3 24 lading or other documents covering the grain, and shall  
3 25 present them to any law enforcement officer ~~or to a person~~  
3 26 ~~designated as an enforcement officer under section 203.13 on~~  
3 27 demand. If there is justification to believe that a person  
3 28 ~~grain dealer is engaged without a license in the business of a~~  
3 29 ~~grain dealer in this state as required pursuant to section~~  
3 30 ~~203.3, the department may inspect the books, papers, and grain~~  
3 31 ~~dealer's records of the person which pertain to grain~~  
3 32 ~~purchases transactions at any time.~~

3 33 2. If ~~the~~ a grain dealer does not maintain a place of  
3 34 business in this state, the department is not required to  
3 35 inspect the ~~business premises of the grain dealer, and the~~  
4 1 ~~grain dealer's records. A grain dealer shall submit all~~  
4 2 ~~books, the grain dealer's records and papers relating to grain~~  
4 3 ~~transactions occurring within this state to the department for~~  
4 4 ~~purposes of an inspection required or permitted under as~~  
4 5 ~~provided in this section at any reasonable time and place,~~  
4 6 including the offices of the department during regular  
4 7 business hours, as ordered by the department ~~or the~~  
4 8 ~~administrator of the warehouse bureau.~~

4 9 3. A grain dealer shall keep complete and accurate  
4 10 records. A grain dealer shall keep records for the previous  
4 11 six years. If the grain dealer's records are incomplete or  
4 12 inaccurate, the department may reconstruct the grain dealer's  
4 13 records in order to determine whether the grain dealer is in  
4 14 compliance with the provisions of this chapter. The  
4 15 department may charge the grain dealer the actual cost for  
4 16 reconstructing the grain dealer's records, which shall be  
4 17 considered repayment receipts as defined in section 8.2.

4 18 Sec. 6. Section 203.10, Code 2003, is amended by striking  
4 19 the section and inserting in lieu thereof the following:

4 20 203.10 SUSPENSION OR REVOCATION OF LICENSE.

4 21 The department may issue an order to suspend or revoke the  
4 22 license of a grain dealer who violates a provision of this  
4 23 chapter, including a rule adopted under this chapter, as  
4 24 provided in chapter 17A. If a grain dealer fails to consent  
4 25 to a departmental inspection or cooperate with the department  
4 26 during an inspection as provided in section 203.9, the  
4 27 department may issue an order to immediately suspend or revoke  
4 28 the grain dealer's license pursuant to section 17A.18.

4 29 Sec. 7. Section 203.11, subsection 2, Code 2003, is  
4 30 amended to read as follows:

4 31 2. a. ~~A~~ Except as provided in paragraph "b", a person who  
4 32 ~~engages commits~~ a serious misdemeanor if the person does any  
4 33 of the following:

4 34 (1) Engages in business as a grain dealer without  
4 35 obtaining a license, ~~or who refuses to permit as required in~~  
5 1 section 203.3.

5 2 (2) Obstructs an inspection of licensed the person's  
5 3 business premises, ~~or books, accounts, or records, or other~~  
5 4 ~~documents required to be kept by this chapter, or who uses a~~  
5 5 ~~grain dealer pursuant to section 203.9.~~

5 6 (3) Uses a scale ticket, ~~or credit-sale contract that~~  
5 7 ~~fails to satisfy requirements established by the department~~  
5 8 ~~commits a serious misdemeanor, except that a in violation of~~  
5 9 ~~this chapter or a requirement established by the department~~  
5 10 ~~under this chapter.~~

5 11 b. A person who commits any of these offenses an offense  
5 12 specified in paragraph "a" after having been found guilty of  
5 13 the same offense commits an aggravated misdemeanor.

5 14 Sec. 8. Section 203.15, subsections 1 through 4, Code  
5 15 2003, are amended to read as follows:

5 16 ~~1-~~ A grain dealer shall not purchase grain by a credit=

5 17 sale contract except as provided in this section.

5 18 1. The grain dealer shall be licensed pursuant to section  
5 19 203.3. All of the following shall apply to a grain dealer  
5 20 required to be licensed under that section who purchases grain  
5 21 by credit-sale contract:

5 22 ~~2- a. A~~ The grain dealer shall give written notice to the  
5 23 department prior to engaging in the purchase of grain by  
5 24 credit-sale contracts contract. ~~Notice shall be on forms~~  
5 25 ~~provided by the department.~~ The notice shall contain  
5 26 information required by the department.

5 27 ~~3- b.~~ All credit-sale contract forms in the possession of  
5 28 ~~a~~ the grain dealer shall have been permanently and  
5 29 consecutively numbered at the time of printing of the forms.  
5 30 ~~A~~ The grain dealer shall maintain an accurate record of all  
5 31 credit-sale contract forms and numbers obtained by that  
5 32 dealer. The record shall include the disposition of each  
5 33 numbered form, whether by execution, destruction, or  
5 34 otherwise.

5 35 ~~4- c.~~ A The grain dealer who purchases grain by credit=  
6 1 sale contracts contract shall maintain ~~books, records, and~~  
6 2 ~~other documents~~ as required by the department to establish in  
6 3 compliance with this section.

6 4 Sec. 9. Section 203.15, subsection 6, Code 2003, is  
6 5 amended to read as follows:

6 6 6. Title to all grain sold by a credit-sale contract is in  
6 7 the purchasing grain dealer as of the time the contract is  
6 8 executed, unless the contract provides otherwise. The  
6 9 contract must be signed and dated by both parties and executed  
6 10 in duplicate. One copy shall be retained by the grain dealer  
6 11 and one copy shall be delivered to the seller. Upon  
6 12 revocation, termination, or cancellation of ~~a~~ the grain dealer  
6 13 dealer's license, the payment date for all credit-sale  
6 14 contracts shall be advanced to a date not later than thirty  
6 15 days after the effective date of the revocation, termination,  
6 16 or cancellation, and the purchase price for all unpriced grain  
6 17 shall be determined as of the effective date of revocation,  
6 18 termination, or cancellation in accordance with all other  
6 19 provisions of the contract. However, if the business of the  
6 20 grain dealer is sold to another licensed grain dealer, credit=  
6 21 sale contracts may be assigned to the purchaser of the  
6 22 business.

6 23 Sec. 10. Section 203.15, subsection 8, paragraph f, Code  
6 24 2003, is amended to read as follows:

6 25 f. The grain dealer has made payment by use of a financial  
6 26 ~~instrument which is a check, share draft, draft, or written~~  
6 27 ~~order on a financial institution or electronic funds transfer,~~  
6 28 and a financial institution refuses payment ~~on the instrument~~  
6 29 because of insufficient funds in a grain dealer's account.

6 30 Sec. 11. Section 203.15, subsection 9, Code 2003, is  
6 31 amended to read as follows:

6 32 9. A ~~licensed~~ grain dealer who purchases grain by credit=  
6 33 sale contract shall obtain from the seller a signed  
6 34 acknowledgment stating that the seller has received notice  
6 35 that grain purchased by credit-sale contract is not protected  
7 1 by the grain depositors and sellers indemnity fund. The form  
7 2 for the acknowledgment shall be prescribed by the department,  
7 3 and the licensed grain dealer and the seller shall each be  
7 4 provided a copy.

7 5 Sec. 12. Section 203.17, subsection 2, Code 2003, is  
7 6 amended by striking the subsection.

7 7 Sec. 13. Section 203C.1, subsection 2, Code 2003, is  
7 8 amended to read as follows:

7 9 2. "Bond" means a bond issued by a surety company or an  
7 10 irrevocable letter of credit issued by a financial institution  
7 11 ~~described in subsection 25.~~

7 12 Sec. 14. Section 203C.1, Code 2003, is amended by adding  
7 13 the following new subsections:

7 14 NEW SUBSECTION. 3A. "Check" means the same as defined in  
7 15 section 203.1.

7 16 NEW SUBSECTION. 6A. "Electronic funds transfer" means the  
7 17 same as defined in section 203.1.

7 18 Sec. 15. Section 203C.1, subsection 7A, paragraph a, Code  
7 19 2003, is amended to read as follows:

7 20 a. The making of a payment by use of a financial  
7 21 ~~instrument which is a check, share draft, draft, or written~~  
7 22 ~~order on a financial institution or electronic funds transfer,~~  
7 23 and a financial institution refuses payment ~~on the instrument~~  
7 24 because of insufficient funds in the warehouse operator's  
7 25 account.

7 26 Sec. 16. Section 203C.1, subsection 18, Code 2003, is  
7 27 amended by striking the subsection and inserting in lieu

7 28 thereof the following:

7 29 18. "Person" means the same as defined in section 4.1 and  
7 30 includes a business association as defined in section 9H.1 or  
7 31 a joint or common venture regardless of whether it is  
7 32 organized under a chapter of the Code.

7 33 Sec. 17. Section 203C.2, Code 2003, is amended to read as  
7 34 follows:

7 35 203C.2 DUTIES AND POWERS OF THE DEPARTMENT == OPERATOR

8 1 RECORDKEEPING.

8 2 1. The department shall administer this chapter and may  
8 3 exercise general supervision over the storage, warehousing,  
8 4 classifying according to grade or otherwise, weighing, and  
8 5 certification of agricultural products.

8 6 2. The department may inspect or cause to be inspected any  
8 7 warehouse including warehouse records as provided in this  
8 8 section. Inspections may be made at times and for purposes as  
8 9 the department determines. Except as provided in section  
8 10 203C.6, the department shall cause inspect every licensed  
8 11 warehouse and its contents to be inspected once in every  
8 12 twelve-month period twelve months. The department shall  
8 13 prioritize inspections based on the system provided in section  
8 14 203C.40. The department may require the filing of reports  
8 15 relating to a warehouse or its operation.

8 16 a. A licensed warehouse operator operating a licensed  
8 17 warehouse shall provide for complete and correct  
8 18 recordkeeping. The records shall account for the storage and  
8 19 withdrawal of all agricultural products handled in each  
8 20 warehouse which the warehouse operator is licensed to operate.  
8 21 The records shall include all original and duplicate receipts  
8 22 issued by, returned to, and canceled by the warehouse  
8 23 operator. A licensed warehouse operator shall keep records  
8 24 for the previous six years. If the licensed warehouse  
8 25 operator's records are incomplete or inaccurate, the  
8 26 department may reconstruct the warehouse operator's records in  
8 27 order to determine whether the warehouse operator is in  
8 28 compliance with the provisions of this chapter. The  
8 29 department may charge the licensed warehouse operator the  
8 30 actual cost for reconstructing the warehouse operator's  
8 31 records.

8 32 b. If upon inspection of a warehouse a deficiency is found  
8 33 to exist as to the quantity or quality of agricultural  
8 34 products stored, as indicated on the warehouse operator's  
8 35 books and records according to official grain standards, the  
9 1 department may require an employee of the department to remain  
9 2 at the licensed warehouse and supervise all operations  
9 3 involving agricultural products stored there under this  
9 4 chapter until the deficiency is corrected. The charge for the  
9 5 cost of maintaining an employee of the department at a  
9 6 warehouse to supervise the correction of a deficiency is one  
9 7 hundred fifty dollars per day.

9 8 3. The department may make available to the United States  
9 9 government, or any of its agencies, including the commodity  
9 10 credit corporation, the results of inspections made and  
9 11 inspection reports submitted to it by employees of the  
9 12 department, upon payment to it of charges as determined by the  
9 13 department, but the charges shall not be less than the actual  
9 14 cost of services rendered, as determined by the department.  
9 15 The department may enter into contracts and agreements for  
9 16 such purpose and shall keep a record of all money thus  
9 17 received. All such money shall be paid over to the treasurer  
9 18 of state as miscellaneous receipts.

9 19 4. The department may classify any warehouse in accordance  
9 20 with its suitability for the storage of agricultural products  
9 21 and shall specify in any license issued for the operation of a  
9 22 warehouse the only type or types and the quantity of  
9 23 agricultural products which may be stored in the warehouse.  
9 24 The department may prescribe, within the limitations of this  
9 25 chapter, the duties of licensed warehouse operators with  
9 26 respect to the care of and responsibility for the contents of  
9 27 licensed warehouses. Grain grades shall be determined under  
9 28 the official grain standards. The department may from time to  
9 29 time publish data in connection with the administration of  
9 30 this chapter as may be of public interest. The department  
9 31 shall administer this chapter.

9 32 5. Moneys received by the department in administering this  
9 33 section shall be considered repayment receipts as defined in  
9 34 section 8.2.

9 35 Sec. 18. Section 203C.10, Code 2003, is amended by  
10 1 striking the section and inserting in lieu thereof the  
10 2 following:

10 3 203C.10 SUSPENSION OR REVOCATION OF LICENSE.

10 4 The department may issue an order to suspend or revoke the  
10 5 license of a warehouse operator who violates a provision of  
10 6 this chapter, including a rule adopted under this chapter, as  
10 7 provided in chapter 17A. If a warehouse operator fails to  
10 8 consent to a departmental inspection during an inspection as  
10 9 provided in section 203C.2, the department may issue an order  
10 10 to immediately suspend or revoke the grain dealer's license  
10 11 pursuant to section 17A.18.

10 12 Sec. 19. Section 203C.36, subsections 1 and 2, Code 2003,  
10 13 are amended to read as follows:

10 14 1. A person who knowingly withholds information from or  
10 15 knowingly submits false information to the department or any  
10 16 of its employees in a ~~document or a book, account, or record~~  
10 17 required to be ~~submitted or maintained~~ or submitted to the  
10 18 department under this chapter commits a fraudulent practice as  
10 19 provided in chapter 714.

10 20 2. a. Except as provided in paragraph "b", a person who  
10 21 engages commits a serious misdemeanor if the person does any  
10 22 of the following:

10 23 (1) Engages in business as a warehouse operator without  
10 24 obtaining a license, or who refuses to permit as required in  
10 25 section 203C.6.

10 26 (2) Obstructs the inspection of licensed the person's  
10 27 business premises, or books, accounts, or records or other  
10 28 documents required to be kept by this chapter, or who uses a  
10 29 licensed warehouse operator pursuant to section 203C.2.

10 30 (3) Uses a scale ticket, warehouse receipt, or other  
10 31 document which fails to satisfy requirements established by  
10 32 the department commits a serious misdemeanor, except that a in  
10 33 violation of this chapter or requirements established by the  
10 34 department under this chapter.

10 35 b. A person who commits any of these offenses an offense  
11 1 specified in paragraph "a" after having been found guilty of  
11 2 the same offense commits an aggravated misdemeanor.

11 3 Sec. 20. Section 203C.39, subsection 3, Code 2003, is  
11 4 amended to read as follows:

11 5 3. A licensed warehouse operator ~~shall not accept may~~  
11 6 transfer grain for storage from to another licensed warehouse  
11 7 operator while such the warehouse operator receiving such  
11 8 grain has grain stored elsewhere under the provisions of this  
11 9 section.

11 10 Sec. 21. Section 203.13, Code 2003, is repealed.

11 11 Sec. 22. Section 203C.35, Code 2003, is repealed.

#### 11 12 DIVISION II

#### 11 13 ELIMINATION OF REGULATIONS FOR GRAIN BARGAINING AGENTS

11 14 Sec. 23. Section 159.6, subsection 12, Code 2003, is  
11 15 amended by striking the subsection.

11 16 Sec. 24. Section 189.1, unnumbered paragraph 1, Code 2003,  
11 17 is amended to read as follows:

11 18 For the purpose of this subtitle, excluding chapters 203,  
11 19 ~~203A~~, 203C, 203D, 207, and 208, unless the context otherwise  
11 20 requires:

11 21 Sec. 25. Section 189.1, subsections 1 and 6, Code 2003,  
11 22 are amended to read as follows:

11 23 1. "Article" includes food, commercial feed, agricultural  
11 24 seed, commercial fertilizer, drug, insecticide, fungicide,  
11 25 paint, linseed oil, turpentine, and illuminating oil, in the  
11 26 sense in which they are defined in the various provisions of  
11 27 this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207,  
11 28 and 208.

11 29 6. "Person" includes a corporation, company, firm,  
11 30 society, or association; and the act, omission, or conduct of  
11 31 any officer, agent, or other person acting in a representative  
11 32 capacity shall be imputed to the organization or person  
11 33 represented, and the person acting in that capacity shall also  
11 34 be liable for violations of this subtitle, excluding chapters  
11 35 203, ~~203A~~, 203C, 203D, 207, and 208.

12 1 Sec. 26. Section 189.2, subsections 2 through 4, Code  
12 2 2003, are amended to read as follows:

12 3 2. Make and publish all necessary rules, not inconsistent  
12 4 with law, for enforcing the provisions of this subtitle,  
12 5 excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

12 6 3. Provide educational measures and exhibits, and conduct  
12 7 educational campaigns as are deemed advisable in fostering and  
12 8 promoting the production and sale of the articles dealt with  
12 9 in this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D,  
12 10 207, and 208, in accordance with the rules adopted pursuant to  
12 11 this subtitle.

12 12 4. Issue from time to time, bulletins showing the results  
12 13 of inspections, analyses, and prosecutions under this  
12 14 subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and

12 15 208. These bulletins shall be printed in such numbers as may  
12 16 be approved by the state printing administrator and shall be  
12 17 distributed to the newspapers of the state and to all  
12 18 interested persons.

12 19 Sec. 27. Section 189.3, Code 2003, is amended to read as  
12 20 follows:

12 21 189.3 PROCURING SAMPLES.

12 22 The department shall, for the purpose of examination or  
12 23 analysis, procure from time to time, or whenever the  
12 24 department has occasion to believe any of the provisions of  
12 25 this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207,  
12 26 and 208, are being violated, samples of the articles dealt  
12 27 with in these provisions which have been shipped into this  
12 28 state, offered or exposed for sale, or sold in the state.

12 29 Sec. 28. Section 189.4, Code 2003, is amended to read as  
12 30 follows:

12 31 189.4 ACCESS TO FACTORIES AND BUILDINGS.

12 32 The department shall have full access to all places,  
12 33 factories, buildings, stands, or premises, and to all wagons,  
12 34 auto trucks, vehicles, or cars used in the preparation,  
12 35 production, distribution, transportation, offering or exposing  
13 1 for sale, or sale of any article dealt with in this subtitle,  
13 2 excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

13 3 Sec. 29. Section 189.5, Code 2003, is amended to read as  
13 4 follows:

13 5 189.5 DEALER TO FURNISH SAMPLES.

13 6 Upon request and tender of the selling price by the  
13 7 department any person who prepares, manufactures, offers or  
13 8 exposes for sale, or delivers to a purchaser any article dealt  
13 9 with in this subtitle, excluding chapters 203, ~~203A~~, 203C,  
13 10 203D, 207, and 208, shall furnish, within business hours, a  
13 11 sample of the same, sufficient in quantity for a proper  
13 12 analysis or examination as shall be provided by the rules of  
13 13 the department.

13 14 Sec. 30. Section 189.6, Code 2003, is amended to read as  
13 15 follows:

13 16 189.6 TAKING OF SAMPLES.

13 17 The department may, without the consent of the owner,  
13 18 examine or open any package containing, or believed to  
13 19 contain, any article or product which it suspects may be  
13 20 prepared, manufactured, offered, or exposed for sale, sold, or  
13 21 held in possession in violation of the provisions of this  
13 22 subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and  
13 23 208, in order to secure a sample for analysis or examination,  
13 24 and the sample and damage to container shall be paid for at  
13 25 the current market price out of the contingent fund of the  
13 26 department.

13 27 Sec. 31. Section 189.8, Code 2003, is amended to read as  
13 28 follows:

13 29 189.8 WITNESSES.

13 30 In the enforcement of the provisions of this subtitle,  
13 31 excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, the  
13 32 department shall have power to issue subpoenas for witnesses,  
13 33 enforce their attendance, and examine them under oath. The  
13 34 witnesses shall be allowed the same fees as witnesses in  
13 35 district court. The fees shall be paid out of the contingent  
14 1 fund of the department.

14 2 Sec. 32. Section 189.9, unnumbered paragraph 1, Code 2003,  
14 3 is amended to read as follows:

14 4 All articles in package or wrapped form which are required  
14 5 by this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D,  
14 6 207, and 208, to be labeled, unless otherwise provided, shall  
14 7 be conspicuously marked in the English language in legible  
14 8 letters of not less than eight point heavy gothic caps on the  
14 9 principal label with the following items:

14 10 Sec. 33. Section 189.13, Code 2003, is amended to read as  
14 11 follows:

14 12 189.13 FALSE LABELS == DEFACEMENT.

14 13 A person shall not use any label required by this subtitle,  
14 14 excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, which  
14 15 bears any representations of any kind which are deceptive as  
14 16 to the true character of the article or the place of its  
14 17 production, or which has been carelessly printed or marked,  
14 18 nor shall any person erase or deface any label required by  
14 19 this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207,  
14 20 and 208.

14 21 Sec. 34. Section 189.14, subsection 1, Code 2003, is  
14 22 amended to read as follows:

14 23 1. A person shall not knowingly introduce into this state,  
14 24 solicit orders for, deliver, transport, or have in possession  
14 25 with intent to sell, any article which is labeled in any other

14 26 manner than that prescribed by this subtitle, excluding  
14 27 chapters 203, ~~203A~~, 203C, 203D, 207, and 208, for the label of  
14 28 the article when offered or exposed for sale, or sold in  
14 29 package or wrapped form in this state.

14 30 Sec. 35. Section 189.15, Code 2003, is amended to read as  
14 31 follows:

14 32 189.15 ADULTERATED ARTICLES.

14 33 A person shall not knowingly manufacture, introduce into  
14 34 the state, solicit orders for, sell, deliver, transport, have  
14 35 in possession with the intent to sell, or offer or expose for  
15 1 sale, any article which is adulterated according to the  
15 2 provisions of this subtitle, excluding chapters 203, ~~203A~~,  
15 3 203C, 203D, 207, and 208.

15 4 Sec. 36. Section 189.16, subsection 2, paragraph a, Code  
15 5 2003, is amended to read as follows:

15 6 a. Grain by a person regulated under chapter 203, ~~203A~~,  
15 7 203C, or 203D.

15 8 Sec. 37. Section 189.19, unnumbered paragraph 1, Code  
15 9 2003, is amended to read as follows:

15 10 The following provisions apply to all licenses issued or  
15 11 authorized under this subtitle, excluding chapters 203, ~~203A~~,  
15 12 203C, 203D, 207, and 208:

15 13 Sec. 38. Section 189.19, subsection 2, Code 2003, is  
15 14 amended to read as follows:

15 15 2. REFUSAL AND REVOCATION. For good and sufficient  
15 16 grounds the department may refuse to grant a license to any  
15 17 applicant; and it may revoke a license for a violation of any  
15 18 provision of this subtitle, excluding chapters 203, ~~203A~~,  
15 19 203C, 203D, 207, and 208, or for the refusal or failure of any  
15 20 licensee to obey the lawful directions of the department.

15 21 Sec. 39. Section 189.20, Code 2003, is amended to read as  
15 22 follows:

15 23 189.20 INJUNCTION.

15 24 Any person engaging in any business for which a license is  
15 25 required by this subtitle, excluding chapters 203, ~~203A~~, 203C,  
15 26 203D, 207, and 208, without obtaining such license, may be  
15 27 restrained by injunction, and shall pay all costs made  
15 28 necessary by such procedure.

15 29 Sec. 40. Section 189.21, Code 2003, is amended to read as  
15 30 follows:

15 31 189.21 PENALTY.

15 32 Unless otherwise provided, any person violating any  
15 33 provision of this subtitle, excluding chapters 203, ~~203A~~,  
15 34 203C, 203D, 207, and 208, or any rule adopted by the  
15 35 department pursuant to such a provision, is guilty of a simple  
16 1 misdemeanor.

16 2 Sec. 41. Section 189.23, Code 2003, is amended to read as  
16 3 follows:

16 4 189.23 COMMON CARRIER.

16 5 The penalties provided in this subtitle, excluding chapters  
16 6 203, ~~203A~~, 203C, 203D, 207, and 208, shall not be imposed upon  
16 7 any common carrier for introducing into the state, or having  
16 8 in its possession, any article which is adulterated or  
16 9 improperly labeled according to the provisions of this  
16 10 subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and  
16 11 208, when the same was received by the carrier for  
16 12 transportation in the ordinary course of its business and  
16 13 without actual knowledge of its true character.

16 14 Sec. 42. Section 189.24, Code 2003, is amended to read as  
16 15 follows:

16 16 189.24 REPORT OF VIOLATIONS.

16 17 When it appears that any of the provisions of this  
16 18 subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and  
16 19 208, have been violated, the department shall at once certify  
16 20 the facts to the proper county attorney, with a copy of the  
16 21 results of any analysis, examination, or inspection the  
16 22 department may have made, duly authenticated by the proper  
16 23 person under oath, and with any additional evidence which may  
16 24 be in possession of the department.

16 25 Sec. 43. Section 189.28, Code 2003, is amended to read as  
16 26 follows:

16 27 189.28 GOODS FOR SALE IN OTHER STATES.

16 28 Any person may keep articles specifically set apart in the  
16 29 person's stock for sale in other states which do not comply  
16 30 with the provisions of this subtitle, excluding chapters 203,  
16 31 ~~203A~~, 203C, 203D, 207, and 208, as to standards, purity, or  
16 32 labeling.

16 33 Sec. 44. Section 189.29, Code 2003, is amended to read as  
16 34 follows:

16 35 189.29 REPORTS BY DEALERS.

17 1 Every person who deals in or manufactures any of the

17 2 articles dealt with in this subtitle, excluding chapters 203,  
17 3 ~~203A~~, 203C, 203D, 207, and 208, shall make upon blanks  
17 4 furnished by the department such reports and furnish such  
17 5 statistics as may be required by the department and certify to  
17 6 the correctness of the same.

17 7 Sec. 45. Section 190.1, unnumbered paragraph 1, Code 2003,  
17 8 is amended to read as follows:

17 9 For the purpose of this subtitle, except chapters 192, 203,  
17 10 ~~203A~~, 203C, 203D, 207, and 208, the following definitions and  
17 11 standards of food are established:

17 12 Sec. 46. Section 203.1, subsection 8, paragraph h, Code  
17 13 2003, is amended by striking the paragraph.

17 14 Sec. 47. Section 203.5, unnumbered paragraph 2, Code 2003,  
17 15 is amended to read as follows:

17 16 If an applicant has had a license under chapter 203, ~~203A~~,  
17 17 or 203C revoked for cause within the past three years, or has  
17 18 been convicted of a felony involving violations of chapter  
17 19 ~~203~~, ~~203A~~, or 203C, or is owned or controlled by a person who  
17 20 has had a license so revoked or who has been so convicted, the  
17 21 department may deny a license to the applicant.

17 22 Sec. 48. Section 203C.6, subsection 7, Code 2003, is  
17 23 amended to read as follows:

17 24 7. If an applicant has had a license under chapter 203-  
17 25 ~~203A~~ or 203C revoked for cause within the past three years, or  
17 26 has been convicted of a felony involving violations of chapter  
17 27 203, ~~203A~~ or 203C, or is owned or controlled by a person who  
17 28 has had a license so revoked or who has been so convicted, the  
17 29 department may deny a license to the applicant.

17 30 Sec. 49. Section 669.14, subsection 11, unnumbered  
17 31 paragraph 1, Code 2003, is amended to read as follows:

17 32 Any claim for financial loss based upon an act or omission  
17 33 in financial regulation, including but not limited to  
17 34 examinations, inspections, audits, or other financial  
17 35 oversight responsibilities, pursuant to chapters 87, 203,  
18 1 ~~203A~~, 203C, 203D, 421B, 486, 487, and 490 through 553,  
18 2 excluding chapters 540A, 542, 542B, 543B, 543C, 543D, 544A,  
18 3 and 544B.

18 4 Sec. 50. Chapter 203A, Code 2003, is repealed.

18 5  
18 6  
18 7

\_\_\_\_\_  
18 8 MARY E. KRAMER  
18 9 President of the Senate

\_\_\_\_\_  
18 13 CHRISTOPHER C. RANTS  
18 14 Speaker of the House

18 16 I hereby certify that this bill originated in the Senate and  
18 17 is known as Senate File 394, Eightieth General Assembly.

18 18  
18 19  
18 20

\_\_\_\_\_  
18 21 MICHAEL E. MARSHALL  
18 22 Secretary of the Senate

18 23 Approved \_\_\_\_\_, 2003

18 24  
18 25  
18 26

\_\_\_\_\_  
18 27 THOMAS J. VILSACK  
18 28 Governor